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April 3, 2020

VIA ECF

The Honorable Brian M. Cogan
United States District Court for the
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *Lawson v. Rubin*, 17-cv-06404

Dear Judge Cogan:

This letter is respectfully submitted by the parties, jointly, pursuant to the Court's order of March 25, 2020, directing the parties to "confer and jointly propose alternative dates in May and June (and, if need be) July, to be submitted to the Court by April 3, 2020."

Trial in May: The Parties' Positions

Defendants submit that the Court should not schedule a trial for May. The spread of the Coronavirus since the Court's March 25 Order makes it appear highly unlikely the City will be fully functioning in May such that jurors would be available and willing to sit together for the time that would be needed for the trial. Preparing for a trial that will likely be postponed takes a financial and emotional toll on the parties. Furthermore, each of the attorneys' places of business will be closed, at the instruction of the President, until at least April 30; thus, preparing for a May trial would be extremely difficult. Finally, some of the people involved in this trial are, based on age and physical condition, within the "higher risk" population defined by the CDC and are anxious at the idea of having to appear for a trial in the next couple of months. Defendants would therefore request that the trial be scheduled for a later date.

Plaintiffs are available any date in May to try this case.



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Trial in June: The Parties' Positions

Defendants are prepared to try the case in June. Defendants note, however, that if the lockdown that is currently in place is continued through April and into May, it will be nearly impossible for the parties and counsel to prepare for a June trial.

Plaintiffs are not available during the month of June due to an arbitration.

Trial in July: The Parties' Positions

Counsel for Ms. Powers has a trial scheduled in New York Supreme Court beginning on July 8, and counsel for Mr. Rubin has an arbitration hearing scheduled for the week of July 20. Each proceeding is expected to last one week.

Plaintiffs are not available from July 1 through July 13, due to the arbitration referred to above.

August-September Conflicts

Although the Court's March 25 Order directed the parties to apprise the Court of dates in May, June, and July, the parties also wish to apprise the Court of the following in August and September:

- One of Ms. Powers's attorneys has longstanding plans to be in France from September 1 through September 13 for her wedding and honeymoon. Thus, counsel for Ms. Powers could not begin a trial in August any later than August 3, and could not begin a trial in September any earlier than September 21.
- Counsel for Mr. Rubin has an arbitration hearing scheduled the week of September 14.
- Plaintiffs are unavailable from August 28 through September 8.



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Request for a Conference

In light of the uncertainty about when people will be able to return to work in the wake of the Coronavirus pandemic, the parties respectfully submit that the Court re-schedule the conference call currently scheduled for April 8, 2020, at 10:00 am, for approximately two weeks, until April 21, 2020, at 11:00 am, or as soon thereafter as the Court is available, to discuss scheduling.

Respectfully submitted on behalf of all parties,

/s/

Edward A. McDonald

cc: Counsel for all parties